

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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LARON FRANKLIN,

Plaintiff,

Case No. 1:22-cv-1005

v.

Honorable Robert J. Jonker

MATT MACAULEY et al.,

Defendants.

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**ORDER LIFTING STAY AND FOR SERVICE**

This is a prisoner civil rights action. In an opinion and order (ECF Nos. 6 and 7) entered on November 29, 2022, the Court partially dismissed Plaintiff's complaint for failure to state a claim upon which relief could be granted under 28 U.S.C. §§ 1915(e) and 1915A and 42 U.S.C. § 1997e(c). The Court noted that Plaintiff's Eighth Amendment excessive force claims against Defendants Nowicki and Schultz would proceed. Subsequently, the Court referred the case to the *Pro Se* Prisoner Civil Rights Litigation Early Mediation Program and entered an order staying the case for any purpose other than mediation. (ECF No. 8.) Mediation was conducted on December 1, 2023, and the case did not settle. (ECF No. 16.) Accordingly,

**IT IS ORDERED** that the stay of this proceeding that was entered to facilitate the mediation is **LIFTED**.

**IT IS FURTHER ORDERED** that the agency having custody of Plaintiff shall again commence collection of the filing fee as outlined in the Court's prior order granting Plaintiff leave to proceed *in forma pauperis*.

**IT IS FURTHER ORDERED** that the 90-day period for service set forth in Federal Rule of Civil Procedure 4(m) shall run, starting with the date of this order.

**IT IS FURTHER ORDERED** that the Clerk shall forward the complaint to the U.S. Marshals Service, which is authorized to mail a request for waiver of service to Defendants Nowicki and Schultz in the manner prescribed by Fed. R. Civ. P. 4(d)(2). If waiver of service is unsuccessful, summons shall issue and be forwarded to the U.S. Marshals Service for service under 28 U.S.C. § 1915(d).

**IT IS FURTHER ORDERED** that Defendants Nowicki and Schultz shall file an appearance of counsel (individual Defendants may appear *pro se* if they do not have counsel) within 21 days of service or, in the case of a waiver of service, 60 days after the waiver of service was sent. Until so ordered by the Court, no Defendant is required to file an answer or motion in response to the complaint, and no default will be entered for failure to do so. *See* 42 U.S.C. § 1997e(g)(1). After a Defendant has filed an appearance, proceedings in this case will be governed by the Court's Standard Case Management Order in a Prisoner Civil Rights Case.

Dated: January 19, 2024

/s/ Ray Kent  
Ray Kent  
United States Magistrate Judge